

## **REMARKS**

Claims 1-26 are pending in the present application. By this Response, claims 1, 6, 10, 15 and 19 have been amended and claims 21-26 are new. Reconsideration and allowance are respectfully requested.

### **Drawing Objections**

Figure 1 has been objected to as not being designated by a legend such as --Prior Art--. Applicants are submitting a replacement sheet in compliance with 37 C.F.R. §1.121(d) containing the changes suggested by the Examiner. Accordingly, Applicants request that the Examiner withdraw the instant objection.

The drawings have been objected to under 37 C.F.R. 1.83(a) as failing to show every feature specified in the claims. In particular, the Examiner has stated that the alleged claim elements of a material permitting "passage of an antimicrobial agent release[d] from the intervention device from the catheter lumen to an outer surface of the catheter (cls. 6 & 15)", a "cap is a stopper (cls. 9 & 18)" and a "threaded portion of the cap and sidearm (cls. 8 & 17)" are not shown in the drawings. Applicants assert that a detailed illustration is not essential for a proper understanding of these claimed features in view of the written description and the drawings as a whole. See, for example, the discussion at paragraph [0023], which explains that "the wall of the catheter lumen may be constructed of polyurethane, polycarbothane or ethyl vinyl acetate" in order to permit passage of the antimicrobial agent, the discussion at paragraph [0021], which describes the frictional functionality of a stopper construction and FIG. 1, which illustrates a conventional threaded inlet connection 4. Accordingly, Applicants request that the Examiner withdraw the instant objection.

### **Claim Rejections**

Claims 1-20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,371,944 to Liu et al. in view of U.S. Patent No. 5,588,443 to Davidson. Applicants traverse this rejection and respectfully assert that a *prima facie* case of obviousness has not been met because the cited references fail to teach or suggest all of the claimed limitations.

With specific regard to claims 1, 10 and 19, none of the cited references provide for an antimicrobial agent that is configured to be released from an intervention device after the intervention device has been inserted into a catheter lumen as claimed. For example, Liu discloses a standard guide wire 18 that is used to insert a catheter into a blood vessel of a patient where the catheter is threaded over the guide wire into the blood vessel and the guide wire 18 is then removed (Liu 1:26-29). The guide wire 18 does not bear an antimicrobial agent or release an antimicrobial agent after the catheter has been threaded over the guide wire. The Examiner acknowledges the failure of Liu to describe an antimicrobial agent bearing device and relies on Davidson to cure the deficiencies of Liu.


Applicants point out, however, that Davidson also fails to describe an antimicrobial agent that is configured to be released from an intervention device as claimed. Davidson is directed to traditional guide wires that have a specialized coating to reduce friction and increase hardness (see Davidson 4:16-77, 7:27-28). The Examiner states that “Davidson discloses a wire for use in the body which is coated with an antimicrobial, anticoagulants, or medicaments or desirable or for reducing adhesion or other adverse cellular or tissue response to surfaces in contact with blood” (Office Action, p. 4). Applicants point out, however, that there is nothing in Davidson to suggest the release of the wire coating from the guide wire. In fact, Davidson expressly teaches away from the separation of the coating from the wire by stating that the coatings described therein should not be “subject to cracking and spalling, thereby potentially releasing particles” (Davidson 4:46-49). Applicants note that it is improper to base a *prima facie* case of obviousness on references that teach away from the claimed approach (see MPEP 2145 X.D.2.). For at least the above reasons, claims 1, 10 and 19 are patentable over Liu and Davidson. Claims 2-9, 11-18 and 20 depend from claims 1, 10 and 19, and therefore also recite patentable subject matter. Accordingly, Applicants request that the Examiner withdraw the instant rejection.

### CONCLUSION

Applicants assert that, for at least the above reasons, all claims in the present application are in condition for allowance. A notice to that effect is respectfully requested.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Kenyon & Kenyon Deposit Account No. 11-0600. The Examiner is invited to contact the undersigned at (202) 220-4226 to discuss any matter concerning this application.

Respectfully submitted,



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